

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,)
individually and on behalf of NORFOLK)
& PORTSMOUTH BELT LINE)
RAILROAD COMPANY,)

Plaintiff,)

v.)

Case No. 2:18-cv-530

NORFOLK SOUTHERN RAILWAY)
COMPANY, NORFOLK & PORTSMOUTH)
BELT LINE RAILROAD COMPANY,)
JERRY HALL, THOMAS HURLBUT,)
PHILIP MERILLI, and CANNON MOSS,)

Defendants.)

JOINT OMNIBUS RESPONSE TO THE COURT’S ORDER TO SHOW CAUSE

Defendants Norfolk Southern Railway Company (“NS”) and Norfolk & Portsmouth Belt Line Railroad Company (“NPBL”), and Plaintiff CSX Transportation, Inc. (“Plaintiff” and together the “Parties”) together with non-Party Virginia International Terminals, LLC (“VIT”), through undersigned counsel, hereby submit this joint omnibus response to the Court’s order to show cause (ECF No. 184) why the motion to compel depositions of CSXT’s deponents (ECF No. 152), motion the quash NPBL’s subpoena to VIT (ECF No. 155), and motion to quash NS’s subpoena to VIT (ECF No. 163) were not responded to.

WHEREAS, NS filed its motion to compel depositions of CSXT’s deponents on March 13, 2020. ECF No. 152. VIT filed its motion to quash NPBL’s subpoena on March 16, 2020. ECF No. 155. And VIT filed its motion to quash NS’s subpoena on March 20, 2020. ECF No. 163.

WHEREAS, the Court granted the Parties' joint motion to stay "all existing deadlines" for 30 days due to the ongoing COVID-19 pandemic on March 19, 2020. ECF 160. Two additional 30-day extensions were entered on April 17, 2020, (ECF No. 165) and May 20, 2020, (ECF No. 173).

WHEREAS, in granting the motions on April 17, 2020 and May 20, 2021 the Court ordered that, during the period of the stay, "the Parties may continue supplementations, conferrals, and motions practice regarding written fact discovery, document discovery, and third-party discovery not requiring in-person activity." ECF Nos. 165 and 173.

WHEREAS, on June 8, 2020, the Court entered an order to show cause why ECF Nos. 152, 155, and 163 were not responded to.

WHEREAS, the stay orders entered by the Court have mooted the motions in ECF Nos. 152, 155, and 163.

WHEREAS, VIT intends to file notices withdrawing its motions to quash NPBL and NS's subpoenas. ECF No. 152 and 155.

WHEREAS, NS intends to file a notice withdrawing its motion to compel depositions of CSXT deponents. ECF No. 163

NOW, THEREFORE, NS, NPBL, CSXT, and VIT respectfully all submit that further responses to ECF Nos. 152, 155, and 163 are unnecessary because the motions were mooted by the Court's stay orders and will be withdrawn. NS and VIT will file their notices withdrawing their motions within three days.

Dated: June 12, 2020

/s/ Robert W. McFarland

Robert W. McFarland (VSB No. 24021)
Benjamin L. Hatch (VSB No. 70116)
V. Kathleen Dougherty (VSB No. 77294)
McGuireWoods LLP
World Trade Center
101 West Main Street, Suite 9000
Norfolk, Virginia 23510-1655
Telephone: (757) 640-3716
Facsimile: (757) 640-3930
rmcfarland@mcguirewoods.com
bhatch@mcguirewoods.com
rgantt@mcguirewoods.com

*Counsel for Plaintiff CSX Transportation,
Inc.*

/s/ Edward J. Powers

Edward J. Powers (VSB No. 32146)
500 World Trade Center
Norfolk, VA 23510
757.446.8600-telephone
757.446.8670-facsimile
EPowers@vanblacklaw.com

*Counsel for Virginia International Terminals,
LLC*

Respectfully submitted,

/s/ Michael E. Lacy

Alan D. Wingfield (VSB No. 27489)
Michael E. Lacy (VSB No. 48477)
Massie P. Cooper (VSB No. 82510)
TROUTMAN SANDERS, LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-1200
Facsimile: (804) 698-6061
Email: alan.wingfield@troutman.com
Email: michael.lacy@troutman.com
Email: massie.cooper@troutman.com

*Counsel for Defendant Norfolk Southern
Railway Company*

/s/ James L. Chapman

James L. Chapman, IV, Esq.
W. Ryan Snow, Esq.
Darius K. Davenport, Esq.
David C. Hartnett, Esq.
CRENSHAW, WARE & MARTIN, P.L.C.
150 W. Main Street, Suite 1500
Norfolk, Virginia 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
jchapman@cwm-law.com
wrsnow@cwm-law.com

*Counsel for Defendant Norfolk & Portsmouth
Belt Line Railroad Company*

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2020, I electronically filed a copy of the foregoing Joint Omnibus Response with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the registered participants as identified on the NEF to receive electronic service, including:

Robert W. McFarland, Esq.
Benjamin L. Hatch, Esq.
E. Rebecca Gantt, Esq.
McGuireWoods LLP
World Trade Center
101 West Main Street, Suite 9000
Norfolk, Virginia 23510-1655
Telephone: (757) 640-3716
Facsimile: (757) 640-3930
rmcfarland@mcguirewoods.com
bhatch@mcguirewoods.com
rgantt@mcguirewoods.com

Attorneys for CSX Transportation, Inc.

James L. Chapman, IV, Esq.
W. Ryan Snow, Esq.
Darius K. Davenport, Esq.
David C. Hartnett, Esq.
CRENSHAW, WARE & MARTIN, P.L.C.
150 W. Main Street, Suite 1500
Norfolk, Virginia 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
jchapman@cwm-law.com
wrsnow@cwm-law.com

*Attorneys for Norfolk and Portsmouth Belt
Line Railroad Company*

Hugh M. Fain, III, Esq.
M. F. Connell Mullins, Jr., Esq.
John M. Erbach, Esq.
SPOTTS FAIN PC
411 E. Franklin St.
Richmond, VA 23219
Telephone: (804) 697-2000
hfain@spottsfain.com
cmullins@spottsfain.com
jerbach@spottsfain.com

*Attorneys for Jerry Hall, Thomas Hurlbut,
and Philip Merilli*

W. Edgar Spivey, Esq.
Clark J. Belote, Esq.
KAUFMAN & CANOLES, P.C.
150 W. Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624-3196
Facsimile: (888) 360-9092
wespivey@kaufcan.com
cjbelote@kaufcan.com

Attorney for Cannon Moss

/s/ Michael E. Lacy
Michael E. Lacy

*Counsel for Defendant Norfolk
Southern Railway Company*